

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

PEREZ-ROMERO, EDUARDO,	)	
	)	
Petitioner,	)	
	)	
-vs-	)	Case No. CIV-18-852-F
	)	
WARDEN, GPCF/BOP, UNITED	)	
STATES,	)	
	)	
Respondent.	)	

**ORDER**

On April 15, 2019, United States Magistrate Judge Bernard M. Jones issued a Report and Recommendation, recommending the court dismiss petitioner's petition for a writ of habeas corpus under 28 U.S.C. § 2241 as moot, or alternatively, the court grant respondent's motion to dismiss and dismiss petitioner's § 2241 petition based upon a failure to exhaust administrative remedies.

Magistrate Judge Jones advised the parties of their right to object to the Report and Recommendation by May 6, 2019. He further advised that failure to make timely objection to the Report and Recommendation waives the right to appellate review of the factual and legal issues addressed. *See, Moore v. United States*, 950 F.2d 656, 659 (10<sup>th</sup> Cir. 1991).


Neither party has filed an objection to the Report and Recommendation nor asked for an extension of time to file one. The record reflects that the Report and Recommendation mailed to petitioner's last known address was returned to the

court. Doc. no. 17.<sup>1</sup> However, pursuant to Rule 5.4(a) of the Local Civil Rules, the Report and Recommendation is deemed delivered to petitioner.

Because no party has filed an objection to the Report and Recommendation within the time prescribed by Magistrate Judge Jones, the court accepts, adopts and affirms the Report and Recommendation. Given that petitioner has been released from his confinement and it does not appear that petitioner can show “collateral consequences,” doc. no. 16, p. 3, n. 4, the court shall dismiss petitioner’s § 2241 petition as moot.<sup>2</sup>

Accordingly, United States Magistrate Judge Bernard M. Jones’s Report and Recommendation (doc. no. 16) is **ACCEPTED, ADOPTED** and **AFFIRMED**. Because Petitioner has been released from his confinement, petitioner’s petition for a writ of habeas corpus under 28 U.S.C. § 2241 is **DISMISSED** as **MOOT**. In light of the court’s ruling, respondent’s motion to dismiss (doc. no. 15) is **DENIED** as **MOOT**.

IT IS SO ORDERED this 7<sup>th</sup> day of May, 2019.

  
STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> In the Report and Recommendation, Magistrate Judge Jones judicially noticed that petitioner was released from confinement on April 12, 2019.

<sup>2</sup> The court notes that it need not decide whether a certificate of appealability should issue as a certificate of appealability is not required in order for a federal prisoner to appeal a final order in a proceeding under § 2241. *See, McIntosh v. United States Parole Commission*, 115 F.3d 809, 810 n. 1 (10<sup>th</sup> Cir. 1997).